

EXHIBIT “B”

NO. 3:02-CV-1145-B-AH

DAVID LYNN CARPENTER) IN THE UNITED STATES
) DISTRICT COURT FOR THE
) NORTHERN DISTRICT OF
Petitioner,) TEXAS

VS.) DALLAS DIVISION

RICK THALER
Director, Texas
Department of Criminal
Justice, Correctional
Institutions Division,

Respondent) CIVIL ACTION NO.
) 3:02-CV-1145-B-AH

ORAL DEPOSITION OF

MANDEE CLOUD

May 5, 2010

Volume 1

ORAL DEPOSITION OF MANDEE CLOUD, produced as a
witness at the instance of the Petitioner, and duly
sworn, was taken in the above-styled and -numbered cause
on the 5th day of May, 2010, from 12:01 p.m. to 2:22
p.m., before Quinlyn Busby, CSR in and for the State of
Texas, reported by machine shorthand, at the offices of
Sorrels, Udashen, Anton, 2301 Cedar Springs Road, Suite
400, Dallas, Texas 75201, pursuant to the Texas Rules of
Civil Procedure.

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1 MANDEE CLOUD,
2 having been first duly sworn, testified as follows:

3 EXAMINATION

4 BY MR. ANTON:

5 Q. Would you state your name for the record,
6 please?

7 A. Mandee Cloud.

8 Q. And were you the same Mandee that testified in
9 the trial of David Carpenter?

10 A. Yes.

11 Q. And at that time, was your name Mandee McBay?

12 A. Yes.

13 Q. Now, you understand that we're here today to
14 take a deposition?

15 A. Right.

16 Q. A statement from you regarding some of the
17 events surrounding that trial?

18 A. Yes.

19 Q. Okay. Now, and for the record, I believe
20 you're on -- you're still on medication today?

21 A. Yes.

22 Q. Is that right?

23 A. Yes.

24 Q. What medications are you on?

25 A. This morning I've taken my Gabapentin and

1 Klonopin.

2 Q. Can you spell those for the court reporter?

3 What were they again? Can you repeat?

4 A. Klonopin.

5 Q. Klonopin?

6 A. And Gabapentin.

7 Q. Gabapentin.

8 MR. ANTON: Okay. We'll get those for you.

9 Q. (By Mr. Anton) How do you feel now?

10 A. Nervous, bad.

11 Q. Do you feel -- do you feel out of sorts or

12 woozy?

13 A. A little bit.

14 Q. Okay. If there's anything that's said that you

15 don't understand --

16 A. Uh-huh.

17 Q. -- please don't hesitate to interrupt and say

18 repeat that, okay?

19 A. Okay.

20 Q. And if you get anxious and you need a break

21 just tell us that you need a break?

22 A. Okay.

23 Q. Okay. I want to make sure -- it's most

24 important that you understand everything that's going on

25 and all the questions that are being asked.

1. A. Okay.

2. Q. Okay. Now, as starting off in background
3 regarding your relationship with David Carpenter, you
4 had lived with him for a period of time in the past; is
5 that right?

6 A. Yes.

7 Q. And you remember approximately what years those
8 were?

9 A. See, '92 to '97.

10 Q. Okay.

11 A. I believe.

12 Q. Did you -- do you remember what years he went
13 to prison?

14 A. I mean, '92 to '94, sorry.

15 Q. Okay. And you remember what years he went to
16 prison?

17 A. No, I don't.

18 Q. Okay. Now back in '92 or '94, I believe you
19 also had some children with him; is that right?

20 A. Yes.

21 Q. Okay. And you-all were living in one
22 household?

23 A. Yes.

24 Q. At some point he went to prison?

25 A. Right.

1 Q. And after he returned from prison, did you move
2 back in with him?

3 A. He didn't get out. He stayed in. Whenever he
4 went -- whenever he went in, in '90 -- let's see, my
5 daughter -- '92, '94 -- '94 --

6 Q. It's your recollection --

7 A. -- actually, it was before '92, 'cause that's
8 whenever I had my first child. So we were together like
9 in '90 or '91, and then I left in '94 when my daughter
10 was like six months old. And right after I left, he
11 went to jail. Then whenever he was fixing to get out of
12 jail, this come about.

13 Q. Okay.

14 A. So he didn't get out during that time. I had
15 seen him prior to that and he had went to prison
16 whenever I was younger.

17 Q. Okay. Do you remember indicating that in 1995
18 that he had started a relationship with another woman?

19 A. Yes.

20 Q. Okay. And you weren't cohabitating[sic] with
21 him -- living with him at that time?

22 A. No, I moved out.

23 Q. Okay. Now, back prior to 1995, were you taking
24 any medications then?

25 A. No.

1 Q. Okay. Were you under any doctors care?

2 A. No.

3 Q. Okay. Were you suffering any of this kind of
4 problems, anxieties or disorders that you have today?

5 A. Yes.

6 Q. Could you describe those briefly?

7 A. Like OCD. Very -- my house had to be clean.
8 Panic attacks, mood swings, depression. I just -- I
9 didn't understand at that time what -- I knew I wasn't
10 right, but I didn't understand what to do, you know.

11 Q. And -- and during the time that you were living
12 with David Carpenter, were you seeing a physician for
13 any of those complaints?

14 A. No, I wasn't.

15 Q. Do you remember discussing any of those
16 problems with David?

17 A. No, we just always joked because how clean I
18 kept the house.

19 Q. After David went to prison and then was
20 released in 1995, from then on, did you ever live with
21 him again?

22 A. No, not that I remember.

23 Q. Okay. And if you can recall from the time that
24 he was released in -- from prison, what kind of contact
25 did you have with him? How frequently would you see

1 him?

2 A. I'm not remembering him being out in '95.

3 Q. Prior to the time -- well, after he -- let's --
4 let me rephrase it this way. After he went to prison,
5 what kind of contact would you have with him?

6 A. We would write.

7 Q. Just write letters?

8 A. Yeah. Might have went and seen him a couple
9 times.

10 Q. Okay. Was he -- and you don't remember him
11 coming over to visit you?

12 A. No.

13 Q. And --

14 A. He wanted to but...

15 Q. How often would you talk with him on the phone,
16 if any?

17 A. I don't remember.

18 Q. And --

19 A. I mean, we did talk on the phone, yes, 'cause
20 he would try to get back with me or whatever. But I
21 don't know how many times or anything like that.

22 Q. Did you have -- do you remember having frequent
23 contact with him after he went to prison?

24 A. Just writing.

25 Q. Okay. And in those letters, did you discuss

1 any of the problems that you were having?

2 A. No, I didn't.

3 Q. In -- I believe in 1997 you went to see a
4 doctor; is that right?

5 A. Right.

6 Q. And do you remember what the diagnoses was at
7 that time?

8 A. At that time it was just depression. That's
9 all he had diagnosed me with.

10 Q. And what kind of medication or medications did
11 he put you on?

12 A. He had me on Zoloft and he had tried me on
13 Buspar, but I couldn't take the Buspar.

14 Q. Okay. And before you started taking the
15 Zoloft, how did you feel? I mean, what was it -- what
16 was it about your condition that you felt needed
17 medication?

18 A. I just -- I knew it wasn't -- I wasn't right.
19 I was depressed and the mood -- like I say, I've had the
20 mood swings all my life and just -- I had to get help.

21 Q. Okay. So starting 1997 you were on Zoloft?

22 A. Right.

23 Q. And then he prescribed a second drug for you?

24 A. Yeah.

25 Q. And that was what?

1 A. That was Buspar and it didn't work for me.

2 Q. And why did it not work for you?

3 A. Whenever I would wake up in the mornings I
4 would -- my whole body would just like shake or
5 whatever.

6 Q. Okay. And from the time you started taking
7 those medications, did you have any contact with David
8 Carpenter?

9 A. I might have wrote him.

10 Q. Okay. Do you recall ever writing him about the
11 fact that you were taking medications or had been to the
12 doctor?

13 A. No, I don't.

14 Q. Okay. You don't remember that ever coming up
15 in conversation with him?

16 A. No, I don't remember.

17 Q. And would you visit him frequently in the jail?

18 A. I might. I don't remember. I might have
19 visited him. I don't remember frequently -- I mean, how
20 much or whatever.

21 Q. And how long would those visits have been?

22 A. I'm not for sure.

23 Q. Okay. And do you remember the conversation of
24 your medications or seeing a doctor, coming up to him?

25 A. No.

1 Q. Okay. At some point, David was arrested on
2 these charges?

3 A. Okay.

4 Q. You recall that?

5 A. When he got arrested in '94? Would it be '94?

6 Q. Whatever your recollection of the dates?

7 A. Yeah. I think it was '94, whenever he got
8 arrested.

9 Q. Okay. Now at his -- do you feel like you have
10 a good recollection of these events?

11 A. Not really.

12 Q. Okay.

13 A. I'm trying, I mean...

14 Q. Does the medication affect that recollection in
15 any way?

16 A. It's possible.

17 Q. How's that?

18 A. Because it slows me down. The Klonopin is
19 Valium, so I mean -- and then a lot of the medicines I
20 take, they can make you have memory loss or whatever.

21 Q. Okay. And if you -- to your knowledge, have
22 you -- can you recall instance where you've suffered
23 from memory loss? You've had problems recalling events?

24 A. Yes.

25 Q. Okay. And is that a problem that was occurring

1 in 1997?

2 A. Yes.

3 Q. When you went to see the doctor?

4 A. Yes.

5 Q. Okay. If you can give me some examples, at
6 all. Remember any instances?

7 A. I mean, just little simple things that my
8 children would do, you know. And they would be, Mom,
9 don't you remember. And I don't remember, you know.
10 Stuff that they said that went on and my mom, she, you
11 know, she's always been with me and she says that the
12 stuff went on and there's stuff I don't remember.

13 Q. Was it just short-term memory or was it
14 long-term memory or do you know?

15 A. I don't know.

16 Q. Okay. Do you recall being contacted by
17 investigators for -- on David Carpenter's behalf when he
18 was in jail prior to trial?

19 A. People come out, yes.

20 Q. Okay. And did you -- did you wish to talk to
21 any of the defense people?

22 A. No, I didn't.

23 Q. Okay. Do you recall why that was?

24 A. Because -- okay. And we're talking about the
25 murder, right? The murder trial?

1 Q. Yes.

2 A. Okay. Because the guy I was with, John Cloud,
3 was telling me that I needed to talk to the defense not
4 the -- I mean, the prosecutors. Not the defense.

5 Q. So he encouraged you --

6 A. Yes. Yes.

7 Q. -- not to talk to the defense? So when the
8 defense would call, what would you tell them?

9 A. Actually, they didn't call, they come out to my
10 work and got me. First, they come out and then they ask
11 me about it and then I acted like I didn't, you know,
12 know what they were talking about. Then they come to my
13 work and pick me up and take me downtown and --

14 Q. Well, I -- we're talking about the police or
15 for the defense attorney?

16 A. That would be Ken Penrod, so that would have
17 been the police. The defense, I don't remember when --
18 I mean, the prosecutors, I don't remember when.

19 Q. Okay. Do you remember saying at trial that you
20 decided not to talk to the defense counsel and the
21 defense investigators? That was your choice?

22 A. Yeah, but John Cloud was telling me not to.

23 Q. And for the record, who's John Cloud?

24 A. He was my husband.

25 Q. And when did you get married to him?

1 A. I have no idea. Probably like in '99. Maybe
2 '98, '99.

3 Q. Was that before or after the trial or do you
4 recall?

5 A. After.

6 Q. Okay. Now, do you recall telling David
7 Carpenter or his attorneys or anybody in his behalf,
8 prior to the trial, about any of the problems you were
9 having or the medications you were taking?

10 A. I just had told Kim Judin.

11 Q. Okay. We'll go into that. Who is Kim Judin?

12 A. She's a prosecutor.

13 Q. Okay. And how many times do you recall you
14 spoke to her?

15 A. Several.

16 Q. And was that in advance of the trial?

17 A. Yes.

18 Q. And do you have a specific recollection of
19 telling her that you were on medication?

20 A. Yeah, 'cause I was trying to --

21 Q. Can you -- can you elaborate on that? Can you
22 be a little more --

23 A. Yeah. I was trying to get -- I was letting her
24 know I was on medication to see if I could get out of
25 having to testify.

1 Q. Why did you not want to testify?

2 A. Because I didn't want to be involved in it.

3 Q. Now, did you tell her that you were on
4 medication? Did you tell her what medications you were
5 on?

6 A. Yes, I told her I was on medication and what
7 medication.

8 Q. Did you name the medication?

9 A. I'm pretty sure I did.

10 Q. And what was that?

11 A. Zoloft.

12 Q. And how was the Zoloft making you feel at that
13 time?

14 A. It was helping, but not -- it wasn't all I
15 needed.

16 Q. I know this is probably difficult to describe,
17 but how -- what difference did the Zoloft have? How did
18 it make you feel differently?

19 A. It made me not so sad.

20 Q. And any other affects that you know of?

21 A. No. It didn't help with nothing else.

22 Q. Do you recall where you were, if it was in
23 person or on the phone, when you talked with Ms. Judin
24 about the fact that you were on medication?

25 A. I believe it was in person in her office.

1 Q. Okay. Did you tell her once or on more than
2 one occasion?

3 A. I'm not for sure.

4 Q. Okay. Do you remember what her reaction was?

5 A. No reaction. I mean, she just went on like it
6 didn't matter.

7 Q. Okay. Now, aside from telling her that you
8 were on Zoloft, did you describe any anxieties or
9 problems you were feeling at the time?

10 A. I was just -- they knew I was nervous and I
11 didn't want to do it.

12 Q. And how did they know that?

13 A. By the way I was acting and telling them.

14 Q. And how were you acting?

15 A. Nervous.

16 Q. Anything else?

17 A. God, I don't -- it's -- I try to block all that
18 out. I don't remember.

19 Q. Okay. And during the trial, if you could
20 recall, did the subject of Zoloft or your medications
21 ever come up?

22 A. No.

23 Q. With anybody else?

24 A. No.

25 Q. After the trial was over, did you ever contact

1 David, or any of his family, investigators, telling them
2 that you were on these medications?

3 A. No.

4 Q. Okay. Now some time after the trial was over
5 you got a different diagnoses; is that right?

6 A. Yeah.

7 Q. And do you remember who that was?

8 A. That one would have been that lady Sylvia Myers
9 (phonetic) and I believe she worked for Telecare
10 (phonetic). I'm thinking that's what she was with.

11 Q. And do you remember what that diagnoses was?

12 A. Bipolar.

13 Q. Okay. And what medications were prescribed at
14 that time?

15 A. I don't remember. They've had me on so many
16 medications trying to get what would work for me over
17 the years. I don't remember exactly.

18 Q. Okay. Now, this might also be a difficult
19 question, but did your -- did the way you feel, your
20 condition, worsen after the trial or did you pretty much
21 feel the same way before the trial as when you were
22 diagnosed with bipolar?

23 A. Yeah, I felt -- I've been this way. It hasn't
24 changed. Nothing changed it.

25 Q. When you say you've been this way, I mean, how

1 long have you been this way?

2 A. I've been treated for about 10 years, but I
3 believe most of my life I've been this way. I just
4 didn't know how to handle -- how to get help when I
5 needed it -- you know, to do.

6 Q. Okay. How did the additional medications,
7 aside from Zoloft that you were given, make you feel?

8 A. At which point?

9 Q. I guess we would have to know what the
10 medications were when you were taking them?

11 A. Some -- some helped, some didn't help. I mean,
12 some of them made me sick. I mean, I've been on a lot
13 of medicine.

14 Q. Did any of them affect your memory?

15 A. Yeah. I mean I was on Trazodone for a while.
16 And that medicine, it will, you know -- you can be
17 having a conversation and then you just stop. You don't
18 remember whatever you were even talking about.

19 Q. And do you remember what years you were on
20 Trazodone?

21 A. She tried me on it not too long ago. I don't
22 remember what year.

23 Q. Now, we've -- with your permission, we got
24 medical release and gathered some of your records; is
25 that right?

1 A. Right.

2 Q. And we gathered some from Timberlawn?

3 A. Right.

4 Q. And we gathered some from the Social Security
5 Administration?

6 A. Uh-huh.

7 Q. And we also gathered some from your first
8 doctor; is that right?

9 A. Yes.

10 Q. Now, in addition, you've seen other healthcare
11 professionals; is that right?

12 A. Yes.

13 Q. Do you remember who else you've seen?

14 A. I seen a lady named Dr. Borick (phonetic) and
15 she was moving, or whatever, and she had stored
16 everybody's medical records in a storage building and it
17 flooded so my medical records from her got destroyed.

18 Q. Do you remember what years you saw her?

19 A. I saw her -- it was right after John died.
20 Probably in 2000.

21 Q. Okay. And do you recall -- aside from her, do
22 you recall any other physicians that treated you or
23 clinics?

24 A. Besides her, I've seen that Dr. Sylvia Myers.
25 I've seen -- I've seen Janice (phonetic) for about six

1 years now.

2 Q. Again, what's -- do you remember what Janice's
3 last name is?

4 A. Janice Sloan (phonetic).

5 Q. Okay. If we were to try to get more of your
6 medical records, who would we talk to or who might have
7 that history?

8 A. I don't know. Because I've been with -- I was
9 with Telecare (phonetic) -- like I say, they switched
10 over and went to Adapt. So I mean they would have my
11 most medical records and recent ones.

12 Q. Okay. Now, after the trial was over, I just --
13 I'll tell you, at some point I got appointed on
14 Mr. Carpenter's case; do you understand that?

15 A. Uh-huh.

16 Q. Okay. And do you recall having investigators
17 or people from my office come out to attempt to talk to
18 you?

19 A. Yes.

20 Q. Do you remember how many times people came out
21 to talk to you over the years?

22 A. No, I don't.

23 Q. Do you remember when the contact attempts
24 started?

25 A. No, I don't. I don't remember.

1 Q. Okay. Are you certain people did come?

2 A. Yeah, they did come because I would tell them I
3 didn't want to talk to them 'cause I didn't want to have
4 nothing to do with it.

5 Q. Why is it that you did not want to talk to
6 anybody on Mr. Carpenter's behalf?

7 A. Because I was told prior to my testimony,
8 whatever, by Ken Penrod, that they would not seek the
9 death penalty and then he told me that they -- after
10 everything was done, or whatever, he said that they were
11 seeking the death penalty.. So I was kind of like -- I'm
12 mad at the whole system and didn't know who to trust and
13 couldn't believe that that had happened, you know. I
14 was lied to and that's a serious lie.

15 Q. So you wouldn't talk to anybody?

16 A. No.

17 Q. Okay. Did anybody else advise you to talk or
18 not talk? Did you have any other concerns about
19 talking?

20 A. No.

21 Q. Did you have any concerns that you would get in
22 trouble if you spoke to somebody?

23 A. Honestly, I was just mad at the system and
24 wouldn't talk.

25 Q. All right. Well, last year Mr. Kenny Johnson

1 (phonetic) --

2 A. Uh-huh.

3 Q. -- came and talked to you. You know him?

4 A. Yes.

5 Q. And who's he?

6 A. He's an investigator.

7 Q. And who's he work for?

8 A. You.

9 Q. Okay. And at that point, you talked and gave
10 him a statement; is that right?

11 A. That's right.

12 Q. Why did you decide to speak to him and give him
13 a statement when you had previously not wanted to talk
14 to anybody before?

15 A. I don't know. It just happened. I guess he
16 approached me the right way and seemed like he was -- I
17 don't know -- I just -- something about him.

18 Q. Now, at the time when Mr. Johnson came out to
19 visit you, was Mr. Cloud still alive?

20 A. No.

21 Q. Okay. Did that have any effect on your
22 decision to talk?

23 A. Yeah.

24 Q. And what was that?

25 A. Well, because he would -- pressured me to more

1 or less get David in trouble, you know.

2 Q. John Cloud did?

3 A. Yeah. Would --

4 Q. Pressured you to get David in trouble?

5 A. Yeah, more or less.

6 Q. How did he go about doing this?

7 A. He would tell me that he talked to them and

8 that they knew about stuff and that they said something

9 about they come to the house and they seen how the house

10 was and there was like cookies out and the kids were

11 clean, so, you know -- so in my mind, when he told me

12 that, I thought, oh, my God, they're thinking about

13 taking my -- you know -- some of my kids so...

14 Q. So you -- you had a concern about that?

15 A. Yeah, I did.

16 Q. What changed your mind about that?

17 A. I guess because they -- they never approached

18 me. Didn't, you know, go to the kids school or nothing,

19 you know.

20 Q. Okay. Now, when you say that Kenny Johnson

21 approached you the right way, how did he approach you?

22 A. He just -- actually it was a lady that come

23 first.

24 Q. Okay.

25 A. I don't remember her name or anything. And --

1 Q. Did she work with Mr. Johnson?

2 A. She -- I thought she worked for you.

3 Q. Okay.

4 A. And she come out and I just open the door and I
5 let her in and we just started talking and then after
6 that -- after I think she seen me one time, then I think
7 Kenny come out.

8 Q. So how many days or weeks after she spoke to
9 you did Kenny come out?

10 A. I'm not for sure.

11 Q. Okay. Was it within the same month, same year?

12 A. Same year, I can say that much. And --

13 Q. You don't know exactly when it was?

14 A. No.

15 Q. Okay. Now did Kenny promise you anything?

16 A. No.

17 Q. What did he say to you that made you decide
18 that you wanted to visit with us?

19 A. I don't even -- I don't remember.

20 Q. Okay. But prior to that time, whenever you
21 were contacted by people, did -- would you get phone
22 calls?

23 A. No, they come out. They would show up at the
24 door, you know.

25 Q. And would you let them in or would you just

1 tell them go on?

2 A. No. I would tell them go on.

3 Q. And do you remember how many times that
4 happened?

5 A. No.

6 Q. Okay. Is it fair to say, until the lady came
7 to visit, you just -- before Kenny Johnson came to visit
8 you that you had no intentions of speaking to anybody?

9 A. Correct.

10 Q. And any efforts had been made to contact you,
11 you said, no, I don't want to talk?

12 A. Correct.

13 Q. Okay. In retrospect, do you think there's
14 anything that could have been said or done at the time
15 to get you to talk?

16 A. Uh-huh.

17 Q. You have to say yes or no for the court
18 reporter?

19 A. No.

20 Q. Okay.

21 A. Sorry.

22 Q. All right. I'd like to talk about your
23 conversations with Detective Penrod.

24 A. Okay.

25 Q. Okay. I think you said a few minutes ago that

1 you felt that you'd been misled in some regard regarding
2 the death penalty?

3 A. Yes.

4 Q. Can you explain that? Do you remember where
5 you were when that conversation took place?

6 A. I was -- I think it was a jail downtown and it
7 was like in a room that had no windows and they would --
8 it had tables, like, two chairs and a door that they
9 would lock, you know.

10 Q. Okay. And did -- did you go down to that room
11 voluntary or were you driven down there?

12 A. They drove me down there.

13 Q. Okay. And who is they?

14 A. It was Ken Penrod and I don't remember who was
15 with him.

16 Q. Okay. Now, was this before David was arrested
17 or while he was in jail?

18 A. While he was in jail.

19 Q. Okay. And was this before the trial?

20 A. Yes, it was.

21 Q. Okay. And what was discussed during that
22 visit?

23 A. We had several visits. He said that he knew
24 that I knew some information about what had happened and
25 that I needed to tell or whatever.

1 Q. Okay. And what did you respond?

2 A. Then I had just -- I don't remember exactly.
3 It's been so many years ago -- word for word. I know we
4 discussed what I had -- the murder or whatever, you
5 know. The -- I had been sleep and got woke up and got
6 told what happened and --

7 Q. Okay. And you discussed that --

8 A. Yes.

9 Q. -- with Mr. Penrod?

10 A. Yes.

11 Q. How did the discussion turn around to the topic
12 about the death penalty?

13 A. Because that was like the first thing on my
14 mind. 'Cause I don't believe in death penalty.

15 Q. And so you asked him about it?

16 A. Yeah.

17 Q. And what did you ask him if you can recall?

18 A. I asked him were they going to seek the death
19 penalty and he said, no.

20 Q. Okay. Would you have agreed to talk had he
21 said that they were going to seek the death penalty?

22 A. No.

23 Q. Had you informed him of that?

24 A. I don't remember.

25 Q. Okay. Now, do you remember if you had that

1 discussion about the death penalty on more than one
2 occasion with Mr. Penrod or just the one occasion?

3 A. I'm not sure. Maybe.

4 Q. Okay.

5 A. Just the one occasion.

6 Q. And I want to go back over this very carefully
7 so I can understand it. You were downtown at the jail?

8 A. Uh-huh.

9 Q. You were there to give a statement and they
10 wanted you to -- to talk to you about --

11 A. Right.

12 Q. And you didn't want to be there?

13 A. No. They kept me there for hours.

14 Q. And you weren't telling them what they wanted
15 to know?

16 A. No.

17 Q. And they told you that they knew you had
18 information?

19 A. Yeah.

20 Q. And you didn't want to talk?

21 A. Right.

22 Q. And then he told you that they weren't going to
23 seek the death penalty?

24 A. Right.

25 Q. And how did that affect your decision to talk?

1 A. I just thought I better tell, I mean, what I
2 knew or you know -- then I had John Cloud telling me
3 what -- that I -- to tell them. So I went ahead and
4 just gave them my statement, however. But I had been
5 taken down there several times.

6 Q. And before that -- before they said that, had
7 you given them the information they wanted?

8 A. No.

9 Q. Okay. Would you have talked with them if you
10 knew they were seeking the death penalty against
11 Mr. Carpenter?

12 A. I would've tried to find a way out of it. I
13 would have.

14 Q. Okay. Now, after that conversation with
15 Mr. Penrod, were there any other times when that
16 discussion came up?

17 A. No. The only time was whenever he come in the
18 room after he had all the statements and I don't know
19 how much time had went by, but he said we're seeking the
20 death penalty.

21 Q. And what was your reaction to that?

22 A. I was like, oh, my God, you know. I said --
23 you know, I couldn't believe they had sat there and told
24 me that and then he done me that way.

25 Q. Did you confront him with that?

1 A. I'm more or less scared of him. I wouldn't --
2 he wouldn't be a person I'd confront. You know what I
3 mean?

4 Q. Okay. Now, did you ever have discussions about
5 that topic with anybody else besides Mr. Penrod? Did
6 you discuss that with any of the prosecutors?

7 A. Not that I remember.

8 Q. So it's primarily Detective Penrod?

9 A. Yeah.

10 Q. And you remember that specifically on one
11 occasion or two occasions?

12 A. I believe one.

13 Q. Okay. Now, when it came time to go to trial,
14 did you want to testify?

15 A. No.

16 Q. And why not?

17 A. Because that's the father of my kids and I
18 didn't want to have to go up there in front of all those
19 people and talk -- and talk about that.

20 Q. And did you make any efforts to try to get out
21 of testifying?

22 A. I tried to tell Kim Judin that I was on
23 medicine to get out of it, but it didn't work.

24 Q. But you specifically recall telling her that?

25 A. Yes. Yes.

1 Q. Now, did you volunteer that to David's defense
2 team at all?

3 A. I never spoke to them. Never.

4 Q. Did you ever consider writing him a letter to
5 tell them that?

6 A. No.

7 Q. I'd like to go over -- you gave -- when
8 Mr. Johnson came out to visit you, you gave an
9 affidavit; you remember that?

10 A. Uh-huh.

11 Q. Okay. And tell us about giving the affidavit.
12 Who wrote it?

13 A. Me.

14 Q. Okay. And how long did it take you to write
15 this?

16 A. I'm not for sure.

17 Q. Did Mr. Johnson suggest anything that needed to
18 be in it?

19 A. No.

20 Q. Okay. How long did he speak to you before he
21 drafted it?

22 A. I'm not for sure.

23 Q. Okay. And let me show you the affidavit of
24 fact I think is on file with the cause. Is that the two
25 page affidavit that you gave?

1 A. Yeah.

2 Q. Okay.

3 A. Yes. Sorry.

4 Q. Okay. I'd like to go through this with you, if
5 I could?

6 A. Okay.

7 Q. This was given on June 19th, 2009, remember
8 that?

9 A. (Nods).

10 Q. You have to say yes or no.

11 A. Yes.

12 Q. Okay. And where were you when you wrote this
13 statement?

14 A. At my house at the kitchen table.

15 Q. How many times had you met Mr. Johnson before
16 you decided to give the affidavit?

17 A. I don't remember.

18 Q. More than once?

19 A. Maybe. I'm not for sure.

20 Q. Okay. And do you remember how long it was
21 after you met the lady investigator that you gave the
22 statement?

23 A. No.

24 Q. Now, it says this is an affidavit at the
25 request of David Carpenter's defense attorney through

1 his investigator. I have never met his defense attorney
2 or spoken to him on the phone. Do you remember that
3 statement?

4 A. Yes.

5 Q. Was that true?

6 A. Yes.

7 Q. I've never felt manipulated by the attorney or
8 the investigator or various investigators over the
9 years; is that your language? I mean, did you say that?

10 A. Yes.

11 Q. Okay. Was that true?

12 A. Yes, sir.

13 Q. And again, agreeing to give your testimony
14 today, do you feel that you've been manipulated in any
15 fashion?

16 A. No.

17 Q. It says by the attorneys or its various
18 investigators over the years; but as you sit here, you
19 don't remember how many investigators called you?

20 A. No, I don't.

21 Q. And you don't remember the years of contact?

22 A. No I don't.

23 Q. Okay. I would never speak to investigators
24 before a year ago because I was told by the prosecutors
25 that David would not get the death penalty, remember

1 that?

2 A. Yes.

3 Q. Now, when you say the prosecutors, when you
4 wrote that, who did you mean by the prosecutors?

5 A. Well, it was actually Ken Penrod.

6 Q. Okay. So you thought he was one of the
7 prosecutors?

8 A. Yeah.

9 Q. Specifically, it's not Kim Judin, correct?

10 A. No.

11 Q. Okay. In the affidavit when you talk about
12 that, that was who you're referring to?

13 A. Yes.

14 Q. Mr. Penrod. Okay. And you say they lied to
15 me. Who is they lied to you?

16 A. The police. He did.

17 Q. Okay. So I felt why should I trust anyone. I
18 don't believe in death penalty. My children are getting
19 older where they understand proceedings more than
20 anything. They want their dad -- they don't want their
21 dad to be put to death? Is that how you feel?

22 A. Yes.

23 Q. Okay. Have your children talked about that?

24 A. Yes.

25 Q. Has that weighed on your brain?

1 A. Yes.

2 Q. How so?

3 A. They -- I mean, they want to know their dad,
4 you know. They've been to visit him a couple of times.
5 They don't want him to die, you know.

6 Q. Okay. Is there -- are there feelings such that
7 you would lie on David's behalf?

8 A. No.

9 Q. Do you need to take a break? Would you like --

10 A. No. I'll be fine. I'll be fine.

11 Q. If you need anything, please let me know.

12 A. Okay.

13 Q. Okay. My boyfriend, at the time that the
14 police were asking me questions about what happened,
15 just before the police came by about David, John Cloud,
16 had anonymously turned my mother in to the police on an
17 outstanding warrant? You remember that?

18 A. Yeah.

19 Q. Okay.

20 A. Yes, sorry.

21 Q. Would -- can you explain a little bit more
22 about that? I mean, how does that enter in your
23 decision to testify or not testify or how you felt about
24 the case?

25 A. Actually, when it happened, I thought David had

1 done it, but --

2 Q. When you say what had happened?

3 A. When my mom -- my mom was in trouble. They had
4 been looking for her for probation violation and I -- at
5 the time, David was fixing to get out, but I was with
6 John and then John was the type of person that was
7 like -- how do you say it?

8 Q. Manipulative?

9 A. Yes. Yes. And me and him had got into a fight
10 and I couldn't drive or nothing so I depended on my mom.
11 He come to our house, told us that the police had just
12 left his work and they were looking for my mom. Now,
13 the police would not go to his work looking for my mom.
14 So I fully believe that he's the one that told on my mom
15 to get my mom out of the way so that I would have to
16 depend on him. You know, 'cause I didn't drive or
17 nothing and we had got into a fight and broke up.

18 Q. Okay. Now, in your mind, did John Cloud have a
19 reason for wanting to see David Carpenter in jail?

20 A. Yes.

21 Q. Which was what?

22 A. Because he -- I didn't know he had been reading
23 letters that he -- David had wrote me and I guess he
24 knew that we were going to get back together whenever he
25 got out. So I believe that he -- I believe he went to

1 the police and said this to keep him from getting out so
2 that we couldn't, you know, be together?

3 Q. So John was doing this to keep David in jail so
4 you would be with John and not David?

5 A. Right.

6 Q. Okay. It said that he pressured me into
7 cooperating with the police and prosecutors. Said if I
8 didn't, they would take my kids away from me. Remember
9 that?

10 A. Yes.

11 Q. That's something John Cloud told you?

12 A. Yes, he told me.

13 Q. And that's not something you heard from the
14 police --

15 A. No. No.

16 Q. -- or anybody else? Okay. How did that what
17 John Cloud was telling you, affect your decision to
18 cooperate?

19 A. Because I'd do anything for my kids, you know.

20 Q. So you were afraid that --

21 A. Yeah.

22 Q. Now, when -- in your discussions with
23 Mr. Penrod or anybody else on the law enforcement or
24 even in the district attorney's office, did you have any
25 concerns about your kids or ask any questions about

1 what's going to happen to me?

2 A. I wanted to know what was going to happen to
3 me.

4 Q. And who did you ask that of?

5 A. I think I asked everybody.

6 Q. Okay. What were you told?

7 A. That nothing would happen --

8 Q. Okay.

9 A. -- to me.

10 Q. So the question is, were you going to cooperate
11 and give them the information even if -- that you knew
12 that they were seeking the death penalty?

13 A. No.

14 Q. Why?

15 A. 'Cause I don't believe in death penalty.

16 That's my kids' dad. I don't want him dead.

17 Q. And that's how you felt at the time?

18 A. Yeah.

19 Q. Okay.

20 A. Yes.

21 Q. And did you make that -- did you ever tell that
22 to the defense attorney or to the defense team that you
23 were opposing the death penalty?

24 A. I think every -- everybody probably knew.

25 Q. Who's everybody?

1 A. Well, there was Kim Judin, Tobey Shook
2 (phonetic), Ken Penrod, some other guy, I don't even --
3 I can't remember his name.

4 Q. And you told them all that you were opposed to
5 the death penalty?

6 A. Yeah.

7 Q. And that you didn't want to go through with
8 this; is that right?

9 A. Right.

10 Q. What response did you get?

11 A. They told me that they weren't going for the
12 death penalty.

13 Q. Who said that?

14 A. Ken Penrod.

15 Q. Okay. And after that, did you have those
16 discussions with Kim Judin or anybody else during the
17 trial that you didn't want?

18 A. I don't remember. There was so much going on
19 in there.

20 Q. Okay. You said I -- I -- I felt pressured by
21 the police and prosecutors and my boyfriend at the time.
22 Police and prosecutors would show up at my house many
23 times and at my work to make me go to their car and
24 talk. Most times they took me to the police station and
25 keep me there for hours; is that right?

1 A. That's right. Yes.

2 Q. So -- now these -- so I'm clear about these
3 events, obviously you've been interviewed numerous times
4 prior to trial by the police?

5 A. Yes.

6 Q. Okay. And how many of those visits did you
7 say, I don't want to talk or I'm not going to get
8 involved?

9 A. I wouldn't --

10 Q. Okay. But you did -- did you give them a
11 statement of David's involvement the first time?

12 A. First time, no, I lied.

13 Q. And what made you change your mind?

14 A. Because they kept telling me that somebody had
15 told -- been telling them that I knew more than what I
16 was telling them.

17 Q. Okay.

18 A. And they just kept on and on and on for hours
19 in those rooms.

20 Q. Did they say anything else to get you to
21 testify?

22 A. Not that I recall.

23 Q. Okay. Did they -- how did their decision --
24 how was the statement that they weren't going to seek
25 the death penalty affect your decision?

1 A. That I testify -- or I give a statement or
2 statements.

3 Q. You gave a statement after hearing that
4 statement?

5 A. Yes.

6 Q. Okay. Now, also, you spoke to Rycke Marshall,
7 you remember that?

8 A. That's psychological --

9 Q. The psychiatrist?

10 A. Yes.. Thank you.

11 Q. And how many sessions did you meet with her?

12 A. I think three or four.

13 Q. Okay.

14 A. I think.

15 Q. And do you remember approximately when that
16 was?

17 A. No.

18 Q. Was that after or before you gave the
19 affidavit?

20 A. Which affidavit? The --

21 Q. This one we just went through?

22 A. The one that I gave to Kenny?

23 Q. Yes.

24 A. After.

25 Q. Okay. And did you allow her to get your

1 medical records and review them?

2 A. Yes, I did.

3 Q. And then you sat down and had several
4 discussions with her?

5 A. Yes, I did.

6 Q. And I'd like to go through some of that, if I
7 could. How were you feeling at the time you gave the
8 interviews with Rycke Marshall? Were you on
9 medications?

10 A. Yeah, I was on my medicine.

11 Q. Do you remember what medicines you were on?

12 A. Zoloft, Gabapentin, I don't know if I was on my
13 Klonopin then -- trying to think of how many medicines.
14 I think I was on like three medicines.

15 Q. Okay. And how were you feeling at the time
16 that Rycke Marshall did the evaluations?

17 A. I was nervous, upset. Brought back a lot of
18 bad stuff.

19 Q. She asked you detailed questions about your
20 background?

21 A. Yeah.

22 Q. And did you attempt to answer her truthfully?

23 A. Yes, I did.

24 Q. And did she review the interviews with you to
25 go over what you said?

1 A. Yes.

2 Q. And do you feel like you were truthful with
3 her?

4 A. Yes.

5 Q. I'd like to ask you about some of that
6 information, if I could.

7 A. Okay.

8 Q. Did you tell her you were born on December 4th,
9 1975?

10 A. Yes.

11 Q. That you're the youngest of three children?

12 A. Yes.

13 Q. And have two half siblings?

14 A. Yes.

15 Q. A sister, 41, and a brother 40?

16 A. Yes.

17 Q. You tell her your parents divorced when you
18 were about two years old?

19 A. Yes.

20 Q. You tell her you saw her[sic] father
21 occasionally after the divorce, but he was not apart of
22 your life as a small child?

23 A. Yes.

24 Q. You tell her that once you were older you
25 became closer?

1 A. Yes.

2 Q. With your father?

3 A. Yes.

4 Q. Okay. And prior to his death from cancer in
5 October 2007, she was with -- you were with him daily?
6 Took care of him?

7 A. Yes.

8 Q. Okay. You reported that your father was an
9 alcoholic and a drug addict?

10 A. Yes. But he had been clean and sober for eight
11 years before he passed.

12 Q. He had been physically abusive to your brothers
13 and sister?

14 A. Yes.

15 Q. And he had sexually abused your sister?

16 A. Yes.

17 Q. Okay. And are those the kind of bad
18 memories --

19 A. Yeah.

20 Q. If you need to take a break at any time let me
21 know. And that you -- you told Rycke Marshall if you
22 misbehaved you were locked in a closet?

23 A. Yes.

24 Q. But you -- nonetheless, you loved your father
25 and felt that he changed over time?

1 A. Yes.

2 Q. He was clean and sober for the last eight years
3 of his life?

4 A. Yes.

5 Q. You told her that?

6 A. Yes.

7 Q. And that your mother was a different person now
8 than when -- when she was -- when you were growing up?

9 A. Yeah.

10 Q. How so?

11 A. My mom was an alcoholic. She was a junkie.
12 Prostitute.

13 Q. She had a series of abusive relationships?

14 A. Yes.

15 Q. And you relayed that to Rycke as well?

16 A. Yes.

17 Q. Okay. I mean -- when I say Rycke you know her?

18 A. Yeah.

19 Q. Do you call her Rycke or Dr. Marshall?

20 A. I know her by Rycke.

21 Q. Did you tell Rycke that your childhood was
22 marked by extreme instability, neglect, and emotional
23 and physical and sexual abuse?

24 A. Yes.

25 Q. There was no food or electricity in the home?

1 A. Yes.

2 Q. That your mother frequently left you at home
3 along with other people and would be gone for days?

4 A. Yes.

5 Q. From an early age you were exposed to drug and
6 alcohol abuse, pornography, sex parties and domestic
7 violence?

8 A. Yes.

9 Q. Okay. And from the time you were five years
10 old, you recall drinking beer and smoking marijuana and
11 cigarettes?

12 A. Yes.

13 Q. Her mother and other adults would -- your
14 mother and other adults would use drugs in your
15 presence --

16 A. Yes.

17 Q. -- is that correct? And sometimes involve the
18 children?

19 A. Yes.

20 Q. Did you tell Rycke there were no rules at home
21 and no stability?

22 A. Yes.

23 Q. Okay. Your sister married at 15 to get away?

24 A. Yes.

25 Q. And when she left she tried to take you with

1 her --

2 A. Yes.

3 Q. -- is that right? Your mother would not allow
4 you to go?

5 A. Huh-huh.

6 Q. And no protection from parents and no guidance?

7 A. Right. Yes.

8 Q. You recall being sexually abused by your
9 stepfather?

10 A. Yes.

11 Q. And being a victim of child pornography at the
12 hands of one of your mother's boyfriend?

13 A. Yes.

14 Q. You were sexually active from age 12?

15 A. Yes.

16 Q. Getting high and dating older men?

17 A. Yes.

18 Q. Your mother was aware of this but decided not
19 to intervene?

20 A. Yes.

21 Q. You tell Rycke when you were young your family
22 moved frequently?

23 A. Yes.

24 Q. You had a number of different schools?

25 A. Yes.

1 Q. You were often absent?

2 A. Yes.

3 Q. It was difficult for you to keep up with your
4 studies?

5 A. Yes.

6 Q. Hated school and described feeling awkward,
7 stupid and self-conscious?

8 A. Yes.

9 Q. And you tell Rycke that you recognized your
10 life was different from most of your peer group?

11 A. Yes.

12 Q. And was difficult for you to fit in?

13 A. Yes.

14 Q. And you dropped out of school in the 7th grade,
15 but attained your GED at age 25?

16 A. Yeah.

17 Q. Okay. Now, you had long -- you told Rycke you
18 had two long-term relationships in your life, right?

19 A. Yes.

20 Q. The first was David Carpenter?

21 A. Yes.

22 Q. The second was Mr. Cloud?

23 A. Yes.

24 Q. J.C. Cloud -- do you call him John or J.C.?

25 A. J.C.

1 Q. J.C. Cloud. That's John Cloud?

2 A. Yeah, that's John Cloud. J.C.

3 Q. In addition to the two daughters you had with
4 David Carpenter, you have a third daughter that was born
5 in 1997; is that right?

6 A. Yes.

7 Q. And those are the girls you spoke of?

8 A. Yes.

9 Q. And how old are they now?

10 A. My oldest just turned 18, the middle child is
11 15 and my youngest is 13.

12 Q. Okay. And since John Cloud's death in 2000,
13 you've dated, but have remained single?

14 A. Yes.

15 Q. And for the past 13 years, you've lived with
16 your mother and helped with the children?

17 A. Yes.

18 Q. And you live -- do you still currently live in
19 Seagoville?

20 A. Yes.

21 Q. Okay. In a mobile home that belonged to your
22 father?

23 A. Yes.

24 Q. Okay. Did you tell Rycke that you acknowledge
25 that you have longstanding psychological problems

1 including depression, suicidal ideation, anxiety and
2 substance abuse?

3 A. Yes.

4 Q. Okay. And these problems began in childhood
5 and are persistent to the present?

6 A. Yes.

7 Q. You told her that?

8 A. Yes.

9 Q. And you were first treated with psychiatric
10 medications for depression and anxiety in 1997?

11 A. Yes.

12 Q. You told her that? And eventually you're
13 diagnosed with bipolar disorder and sub -- polysubstance
14 abuse?

15 A. Yes.

16 Q. Okay. And from 1997 until 2000, your
17 psychiatric problems were treated primarily by Wesley
18 Rayborn (phonetic); is that right?

19 A. Yes.

20 Q. Okay. Is that one of the doctor's records we
21 have?

22 A. That -- yeah. He was the first doctor. I
23 mean, he was a family doctor not a psychiatrist.

24 Q. Right. And then after that you saw Vickie
25 Boric (phonetic)?

1 A. Yeah.

2 Q. Who diagnosed you with bipolar?

3 A. Yes.

4 Q. Now, is that the woman we spoke of all the
5 records were destroyed -- your records were destroyed in
6 her office in a flood?

7 A. Yes.

8 Q. Okay. And as far as you know, she has no other
9 copies?

10 A. Right.

11 Q. Okay. And then you saw -- after her you saw
12 Dr. Myers?

13 A. Uh-huh.

14 Q. In -- and since 2004, you've seen Dr. John
15 Bennett (phonetic) with the Adapt Clinic?

16 A. Yeah.

17 Q. And to your knowledge, that's a complete list
18 of the doctors that you've seen?

19 A. That one -- I seen that one in Timberlawn. I...
20 don't remember her name.

21 Q. Okay. Did you tell Rycke that because of these
22 psychological problems, you've only worked sporadically?

23 A. Yes.

24 Q. In 2003, you were unable to work due to your
25 bipolar disorder?

1 A. Yes.

2 Q. And in August 2003, Social Security
3 Administration declared you disable and eligible for
4 benefits due to that mental condition?

5 A. Yes.

6 Q. Is that still the case?

7 A. Yes.

8 Q. The Social Security Administration deemed you
9 unable to handle your own affairs and your mother's been
10 appointed as your legal guardian?

11 A. Yes.

12 Q. Okay. Now, you also told Rycke that you deny
13 using any intravenous drugs?

14 A. Yes.

15 Q. Okay. But you have -- you have used or been
16 addicted to marijuana, methamphetamine, crack cocaine?

17 A. And alcohol, yes.

18 Q. Okay. And after your father's death, you
19 became addicted to crack and had suicidal ideation?

20 A. Yes.

21 Q. You were -- sought inpatient treatment at
22 Timberlawn in 2007?

23 A. Yes.

24 Q. And you've been clean since then?

25 A. Yes.